

1-1 By: Ellis S.B. No. 468
1-2 (In the Senate - Filed February 6, 2007; February 21, 2007,
1-3 read first time and referred to Committee on State Affairs;
1-4 March 14, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 0; March 14, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 468 By: Ellis

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the standard of proof in health care liability claims
1-11 involving emergency care.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 74.153, Civil Practice and Remedies
1-14 Code, is amended to read as follows:

1-15 Sec. 74.153. STANDARD OF PROOF IN CASES INVOLVING EMERGENCY
1-16 MEDICAL CARE. In a suit involving a health care liability claim
1-17 against a physician or health care provider for injury to or death
1-18 of a patient arising out of the provision of emergency medical care
1-19 in a hospital emergency department or obstetrical unit or in a
1-20 surgical suite immediately following the evaluation or treatment of
1-21 a patient in a hospital emergency department, the claimant bringing
1-22 the suit may prove that the treatment or lack of treatment by the
1-23 physician or health care provider departed from accepted standards
1-24 of medical care or health care only if the claimant shows by clear
1-25 and convincing [~~a preponderance of the~~] evidence that the physician
1-26 or health care provider [~~, with wilful and wanton negligence,~~]
1-27 deviated from the degree of care and skill that is reasonably
1-28 expected of an ordinarily prudent physician or health care provider
1-29 in the same or similar circumstances.

1-30 SECTION 2. The change in law made by this Act applies only
1-31 to a cause of action that accrues on or after the effective date of
1-32 this Act. A cause of action that accrues before the effective date
1-33 of this Act is governed by the law in effect immediately before that
1-34 date, and that law is continued in effect for that purpose.

1-35 SECTION 3. This Act takes effect September 1, 2007.

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